

§ 58-46-30. Appeals; judicial review.

The association shall provide reasonable means, to be approved by the Commissioner, whereby any person or insurer affected by any act or decision of the administrators of the Plan or underwriting association, other than an act or decision relating to the cause or amount of a claimed loss, may be heard in person or by an authorized representative, before the governing board of the association or a designated committee. Any person or insurer aggrieved by any decision of the governing board or designated committee, may be appealed to the Commissioner within 30 days after the date of the ruling or decision. The Commissioner, after a hearing held under rules adopted by the Commissioner, shall issue an order approving or disapproving the act or decision with respect to the matter that is the subject of appeal. The Commissioner may appoint a member of the Commissioner's staff as deputy commissioner for the purpose of hearing the appeals and a ruling based on the hearing has the same effect as if heard by the Commissioner. All persons or insurers or their representatives aggrieved by any order or decision of the Commissioner may appeal as provided in G.S. 58-2-75.

No later than 10 days before each hearing, the appellant shall file with the Commissioner or the designated hearing officer and shall serve on the appellee a written statement of the appellant's case and any evidence that the appellant intends to offer at the hearing. No later than five days before the hearing, the appellee shall file with the Commissioner or the designated hearing officer and shall serve on the appellant a written statement of the appellee's case and any evidence that the appellee intends to offer at the hearing. Each hearing shall be recorded and may be transcribed. If the matter is between an insurer and the Association, the cost of the recording and transcribing shall be borne equally by the appellant and appellee; provided that upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by the other party. If the matter is between an insured and the Association, the cost of transcribing shall be borne equally by the appellant and appellee; provided that the Commissioner may order the Association to pay recording or transcribing costs for which the insured is financially unable to pay. Each party shall, on a date determined by the Commissioner or the designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or the designated hearing officer and serve on the other party, a proposed order. The Commissioner or the designated hearing officer shall then issue an order. (1969, c. 1284; 1985, c. 519, s. 5; 1989 (Reg. Sess., 1990), c. 1069, s. 19; 1999-219, s. 1.3.)